

BOOK REVIEWS

FOR THE DEFENCE—THE LIFE OF SIR EDWARD MARSHALL HALL, by Edward Majoribanks, Macmillan & Co., New York, 1929. Pp. xiv, 471.

In one of his novels less well known, perhaps, than some of the others, Anthony Trollope made this acute observation: "The best of the legal profession consists in this—that when you get fairly at work you may give over working. An aspirant must learn everything; but a man may make his fortune at it, and know almost nothing. He may examine a witness with judgment, see through a case with precision, address a jury with eloquence and yet be altogether ignorant of law. But he must be believed to be a very pundit before he will get a chance of exercising his judgment, his precision or his eloquence." A serious minded counsellor, half buried under the annual avalanche of reports, statutes and digests that he has no time to read and fears to throw away, may offer an emphatic negative to so blissful a view of a many sided and much misunderstood profession. Yet, in the case of the advocate, there is an element of truth in Trollope's assertion. The book learning of the trial lawyer does not have to be extensive; his reading is of human character in the dock, on the bench, and in the jury box.

Sir Edward Marshall Hall, the subject of this memoir, is an apt illustration of this view. It is related that early in his career he remarked to a young colleague: "I mean to specialize in the two biggest gambles there are; life and death—freedom and imprisonment. Facts not principles for me. I don't know much law, but I can learn what there is to be known about men and women." In this sentence Marshall Hall, as he was generally known, summed up his vocation. Called to the bar in 1883, "taking silk" or becoming a leader, in 1898, during a long career of more than forty years, until his death in 1927, he held a brief in almost every celebrated murder trial of his time and enjoyed a great reputation as an astute counsel for the defence. He also appeared in many civil cases of the sort that attract public attention. Tall, handsome, vigorous, eloquent, he was just the type to become a public favorite; his social charm made him many friends. The author of his biography, who knew him as a junior associate, paints an attractive portrait, showing his varied gifts and how cheerfully and courageously he bore domestic tragedy and physical affliction. One could not ask for a more sympathetic biographer, and, as the contemporary scene disappears under the gentle erasing hand of time, Sir Edward's best chance for remembrance lies in this book. For the advocate's fame, like the actor's, is ephemeral, and of all the leading counsel of the day, his name, as his biographer admits, was most frequently in the newspapers and most rarely in the official law reports.

The method he followed was quite simple, and not uncommon with lawyers who practice habitually in the criminal courts; it was his ability in applying it that was notable. Leaving points of law to his juniors, he would concentrate on the facts, by skillful cross-examinations would extract or suggest an alternative solution to that of the prosecution, and then by a dramatic appeal to

the jury snatch a verdict in spite of the judge. This did not endear him to the judiciary; on two occasions he gave an opportunity for an enemy on the bench to reprimand him for exceeding the proper limits of advocacy, and in civil cases his verdicts were more than once set aside to his chagrin. In his impetuosity he was sometimes rude to the court. But he learned caution, and the personal regard in which he was held in his later years mellowed the asperities of the forum. To the general public that loves fervid oratory he remained a celebrity to the end.

The work is a biography, but in addition a picture of life at the Common Law bar of England, its etiquette, discipline and conventions. Mr. Majoribanks also with great pains and dramatic skill, has reviewed the principal murder trials in England during the last generation; sorry and sordid tales they are at the best, but of the sort that many readers never tire of. The detective novel seems trite besides these true stories of vice and crime. But besides making the flesh of the lay reader creep, there is much in the trial technique of professional interest to the American lawyer, always curious about a system of justice so strangely similar to and yet so unlike his own. One or two less obvious points may be mentioned. In the course of an action for libel Marshall Hall inadvertently trod on the toes of a great publisher. From that time he was the victim of a subtle and malicious campaign of newspaper disparagement that nearly ruined his practice and ended only when he succeeded in making his peace with the august personage he had offended. It is a grim reminder of the power of the modern publisher whom none, not even a popular and pugnacious lawyer, may offend with impunity. Another thing—Sir Edward never professed to any interest in legal learning. He was a getter of verdicts and disliked, with reason, to argue in the court of appeal. His remarkable success in the conduct of trials gives semblance of plausibility to the romantic legend that the inferior student in college will in real life outstrip the honor man. Marshall Hall, only a pass man, which is not much at an English University, no doubt did by his eloquence and dramatic powers outshine many scholarly fellow students at Cambridge. But his continued indifference to legal science was to make his career in a sense a showy failure. One after another his brilliant contemporaries, and then his juniors, were elevated to the bench and woolsack while he remained in harness as a K. C. to the end. He hid his disappointment and generously congratulated his friends on their advancement but no promotion came his way. And candor compels one to admit that the authorities were right. He did not have the learning, the poise, the detached mental attitude requisite for the High Court.

What sort of career a man of his stamp, a genius in his own way, could have made at the American bar is an interesting speculation. The country is too decentralized to enable a leader of the criminal bar to acquire easily a national reputation. Local bars are jealous of outsiders and juries suspicious. The prisoner as a rule has a better chance with a local man than a distinguished stranger; shows like the Scopes trial are uncommon. Not a success in Parliament, he might have found in the less critical atmosphere of American politics an emotional outlet and pathway to fame. In the Senate his eloquence, histrionic talent and meager learning would have found congenial company. But as an American it is unlikely that he would have come to

the bar. Dr. Franklin, a shrewd observer of American ways once said: "Lawyers, preachers and tomtit's eggs, there are more of them hatched than come to perfection." The philosopher saw with uncanny wisdom that humanism would have but a subordinate part in the development of this continent, by the hungry hordes eager for the material comfort denied to their ancestors. The learned professions, in fact, thrive only as accessories to economic realism. The conviction or acquittal of a dozen criminals, just or unjust, may entertain readers of the tabloids, but will make less impression on the average solid citizen than a fluctuation in the quotation for General Motors. Sir Edward, had he been an American would have gone into business promptly, and employed profitably that rare taste for jewelry and antiques that he cultivated as a hobby; matching diamonds and pearls for Park Avenue, or giving to the apartments of entrepreneurs a false appearance of ancient culture through the forlorn vestiges of lost families and abandoned homes.

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FROM THE PHYSICAL TO THE SOCIAL SCIENCES. By Jacques Rueff. Translated by Herman Green. The Johns Hopkins Press, Baltimore, 1929. Pp. xxxiv, 159.

The credit for the translation of this delightful monograph from the French to the English is due to the Johns Hopkins Institute for the Study of Law. The text by Mr. Rueff does not deal directly with legal science; there is no explicit reference to it. Its thesis is well described in the preface. The book represents a part of the

"current and widespread discussion of the development of the scientific habit of thought and of the logic and philosophy underlying scientific methods. Of wider interest and of even more importance is the book's contribution to the effort now being made in many quarters to borrow from the physical sciences their more exact, objective and fruitful methods for use in the social sciences."

Mr. Rueff may be described as a Neo-Kantianist or perhaps as a positivist; labels are not very helpful in describing contemporary philosophers. With Henri Poincaré¹ and others in Europe, and William James, Dr. Edgar A. Singer, Jr., and others² in this country, he describes the physical scientist as an artist, as the creator and not the discoverer of his laws. "The point of departure is living man grappling with this something which resists him, which he calls reality and which reveals itself to him only in a succession of sensations and nothing else. . . . A law is the expression of a sequence of events." General laws are the product of artistic imagination creating, for ease of description, similarities out of heterogeneous sensations. A law which

¹ Cited in the text, pp. 33, 55.

² SINGER, *MIND AS BEHAVIOUR* (1924) especially 187 *et seq.*, and 285 *et seq.* Mr. Justice Holmes in his "COLLECTED PAPERS" (1921) 303 in an article entitled "Ideals and Doubts" cites Morris R. Cohen and Del Vecchio as taking the same position. He, however, sounds a note of caution in the application of the method to legal problems.

describes the succession of sensations is true so long and only so long as events as they transpire and are observed continue to be accurately described by the law. And this is the fundamental concept, not new in the history of thought, but unrecognized by a great many physical as well as social scientists, which Mr. Rueff sets forth as a result of a general consideration of the method of science.

“ . . . the Law of Causality, which seems to be the expression of physical reality independent of ourselves, owes its existence merely to the effort of our mind to impose that law upon the world.”

In the last part of his book, Mr. Rueff attempts to show that exactly the same procedure is applicable to the social sciences, taking ethics and political economy as examples.

What value has such a study for the lawyer? There is perhaps no profession which pays greater or blinder tribute to the magical efficacy of logic and theory. This is brought out forcibly in an introduction by Mr. Herman Oliphant and Mr. Abram Hewitt. A true science consists of an empirical branch which gathers observations, and a rational branch which orders the observations and creates tentative laws. Of course in practice the two branches can never be clearly isolated. The tools of the empirical branch are primarily the sensory organs, of the rational branch, deductive and inductive logic and intuition. But deductive logic is merely a tool for detecting contradictions, for “localizing doubt.” Inductive logic and intuition (perhaps we might say “*or* intuition”) are procedures of research, not of proof. The entire rational branch of a science is purely formal, the results arrived at depend entirely on the sensory experiences which are put into this “gristmill.” As is pointed out in the introduction, “the development of the rational branch of a subject accomplishes many important things in the advancement of knowledge. Therein reside indispensable mnemonic devices and means of communication.” But divorced from empirical studies, the results are of no practical value.

The rational side of the law has been skillfully and effectively developed, but there has been a complete absence of effort to *methodically* develop its empirical side. This phase of the problem has been well described by Mr. Cook:³

The judge must know two things in deciding the claim of a particular plaintiff: “(1) what social consequences or results are to be aimed at; and (2) how a decision one way or the other will affect the attainment of those results.”

The first requisite is a question of goals, and a categorical issue, impossible of empirical verification.⁴ Opinions in regard to ultimate value are precipitated from the custom of the people, and from the education and general environment of the judges.⁵ But the second requisite presents a purely

³ Cook, *The Scientific Method of the Law* (1927) 13 A. B. A. J. 303, at 308. See also IHERING, *LAW AS A MEANS TO AN END* (1913).

⁴ The failure to distinguish between final good and functional good has been the source of much confusion of thought, historically.

⁵ See CARDOZO, *GROWTH OF THE LAW* (1924); CARDOZO, *PARADOXES OF LEGAL SCIENCE* (1928). Cf. POUND, *LAW & MORALS* (1924) *passim*. Reading

empirical issue, which should not be left prey entirely to the crude methods of common sense and judicial notice.⁶ Whenever feasible, it should be the subject of statistical study,⁷ as is the scientific study of the behaviour of all physical bodies. This would seem to be the crux of the problem of applying the method of the physical to the social sciences.⁸ This criticism that this is theoretical seems antiquated. The problem of coordinating theory and practice exists in medicine, biology and engineering, but does not discourage theoretical investigation in those fields.⁹

This is the keynote of Mr. Rueff's argument. His book is delightfully and skillfully written, and carefully avoids confusing metaphysical controversies. It is a splendid introduction to the philosophy underlying the modern physical sciences. The application of the method to the social sciences is rather inferior to the first part in that it does not seem to grasp sufficiently the problems which arise from the introduction of functionally defined classes.¹⁰ It would seem too, that the science of ethics might be more effectively approached as a study of a specific type of behaviour under varying geographic, economic and social conditions, rather than as the development of a system of postulates to explain existing codes of avowed morality.¹¹ The translation of this book lives up to the high standard of pioneering work which is being done by the Johns Hopkins Institute of Law.

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through WIGMORE, PANORAMA OF THE WORLD'S LEGAL SYSTEMS (1928) one cannot but be impressed with the force of custom as a criterion of final good. This would seem to be the more proper field for the application of the rule of *stare decisis*.

⁶ HOHFELD, FUNDAMENTAL LEGAL CONCEPTIONS (1923). In an article therein entitled "A Vital School of Jurisprudence," Mr. Hohfeld strongly recommends the study of the functional effect of different rules of law.

⁷ Mr. Justice Brandeis, when he appeared as counsel in *Muller v. Oregon*, 243 U. S. 426; 37 Sup. Ct. 435 (1917) undertook to bring before the Court, by inclusion in the brief, pertinent statistical data, legislative practice, scientific discussions by persons of eminence in their profession and so forth, in support of an hours-of-service law for women. The entire history of the use of this procedure before the Supreme Court is reviewed in Bikle, *Questions of Fact Affecting Constitutionality* (1924) 38 HARV. L. REV. 6.

⁸ SINGER, *op. cit. supra* note 2, 64-69, 227 *et seq.* Difficult problems also arise because of the necessity of introducing functionally defined classes. *Ibid.* Mr. Rueff does not go into these more difficult phases of the application of the method of the physical to the social sciences.

⁹ See COOK, Introduction to HOHFELD, FUNDAMENTAL LEGAL CONCEPTIONS (1919) 21; Cook, *Scientific Method and the Law* (1927) 13 A. B. A. J. 303. For a splendid example of the application of theoretical scholarship to practical problems, see Cook, *The Logical and Legal Bases of the Conflict of Laws* (1924) 33 YALE L. J. 457.

¹⁰ *Supra* note 8.

¹¹ A similar suggestion might be made for a behaviouristic approach to certain mental conceptions used in legal science, such as that of intention. See the argument of Mr. Justice Holmes, as counsel in *RR. v. Mitchell*, 6 State Tr. N. S. 599, 632, quoted in 1 WIGMORE, EVIDENCE (2d ed. 1923) § 301, at page 612.

THE LAWS AND LIBERTIES OF MASSACHUSETTS. Reprinted from the copy of 1648 edition in the Henry E. Huntington Library. With an Introduction by Max Farrand. Pages IX, 59. Harvard University Press, Cambridge, 1929.

The discovery of an original copy of the reprint under review, Joseph Sabin, the well-known biographer, declared just fifty years ago, "would be a bibliographical wonder". This "wonder" came to pass some years later through the discovery in the library of the Mayor of Rye, England, of an original copy of one of the edition of 600 ordered printed in 1648. This copy, after passing through several private hands, eventually came into the possession of the Huntington Library. It is the only copy known to have been preserved. The explanation of the disappearance of the other copies, the Editor points out, is found in a petition of the Treasurer of the colony in 1651, for a reimbursement of funds he had expended for copies of "*The Book of Lawes*," which by reason of emendation of the laws were "unvendable" and "a great part Turned to Wast Pap'r and many of them Burnt".

Dr. Max Farrand, the Director of the Huntington Library, contributes a scholarly and informative introduction, in which he traces the history of the drafting of the first code of laws of the colony of Massachusetts, known as "*The Body of Liberties*" of 1641 and of the revision and expansion of the same and the publication of the new body of laws in 1648, the unique copy of which now has been reprinted, in type similar to the original, reproducing "the original line for line and word for word".

For many years there was much doubt and misunderstanding in regard to the early laws of Massachusetts. This was in part due to the incompleteness of the Records of the General Court, and in part to the publication in London in 1641 of a pamphlet entitled "*An Abstract of the Lawes of New England*". This document was accepted for years in England and later by many historians, as the actual code of laws adopted by the General Court in 1641. All doubt in regard to the matter was cleared up by the discovery in the old Atheneum in Boston of a manuscript copy of the real *Body of Liberties* by Francis C. Gray and the publication of the text for the first time in 1843, accompanied by a brilliant essay in which Mr. Gray established the genuineness of the document. *The Abstract* published in London in 1641 was identified as the draft of the proposed code drawn by John Cotton, and referred to in Governor Winthrop's *Journal* under date of October 1636 in the following entry: "Mr. Cotton did this Court present a model of Moses his Judicials". This was not adopted, but after several years further consideration and procrastination in which, to again quote Winthrop, "Most of the Magistrates and some of the Elders were not forward in the matter". *The Body of Liberties* drafted by the Rev. Nathaniel Ward, was, after amendment "established for three years".

Excellent as was this code, the general court in the course of the next few years subjected it to further revision and added several new laws. In the course of the year 1647 or 1648 the laws appear to have been approved and ordered printed, although no record appears in the minutes of their formal adoption. The Editor however points out that in the Records of November 11, 1647, a reference is made to "The Lawes now being in a manner agreed upon", and in March 1648 a further reference is made to "the Amendments of the bookes of lawes past".

The Book of the General Lawes and Libertyes comprised in addition to the title page and a two-page salutation of the secretary of the colony fifty-nine pages of text including all the laws in force, arranged alphabetically according to the subject matter. It has been said truly that this was "the first attempt at a comprehensive reduction into one form of a body of legislation of an English speaking country". Although the title page of the original states it was published by the authorities of the General Court in 1647 and printed in 1648, the editor selects the later date for the title page of the reprint as it includes laws passed in 1648. Photostat copies of the original title page as well as one page of the text are reproduced as illustration.

A few of the outstanding or notable provisions of this code should be mentioned. The number of capital offenses listed was fifteen, an increase of three over *The Body of Liberties* of 1641. Each of these fifteen laws was supported by Scriptural citations to the Mosaic code. Severe as the Puritan laws are commonly believed to have been it should be noted that this was a reduction of over one half in the number of capital crimes under contemporary English law. The first law establishing public schools in America, passed in 1647, is included in this collection. Its famous preamble beginning "It being one chief project of that old deluder, Satan, to keep men from a knowledge of the Scriptures," etc., is frequently quoted as characteristic of and highly honorable to the Puritan. Against "idleness" the constables are ordered to "use special care and diligence to take knowledge of offenders in this kinde, especially of common coasters, unprofitable fowlers and tobacco takers" and to present them to the magistrates. Strict regulations were passed governing inn-keepers as well as for the punishment of "tippling and drunkenness" as also laws restricting the use of tobacco. The latter were evidently intended not only as a preventive against fire but also to guard against its use becoming an offense to others. Marriage laws were strict. While for the protection of maids those who tried to draw away their affection under pretense of marriage, before the consent of their parents had been obtained were subject to fine and possible imprisonment. The temptation to comment further on other peculiarities of the code must be resisted.

In conclusion, it remains only to note that by the publication of this volume there is made available generally to lawyers and students of colonial history and law an authentic edition of the laws of Massachusetts of 1648, upon which all its subsequent legislation was based.

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COSTIGAN'S CASES—WILLS, DESCENT AND ADMINISTRATION. (Second Edition.)

By George P. Costigan, Jr. American Casebook Series, West Publishing Company, St. Paul, 1929. Pp. xxi, 888.

Almost twenty years ago the present writer reviewed the original edition of this casebook. At that time it constituted an isolated volume of the American Casebook Series—there having been no attempt at that time to coordinate in this Series the subject of Wills and Administration to the other branches of Property Law. The new edition constitutes the 5th Volume of

a series co-ordinating the law of property and known as "*Cases on the Law of Property*" of the American Casebook Series.

In the years that have passed since the first edition of this work there has emanated from the courts a huge volume of new cases. The Editor has selected with admirable judgment from this wealth of learning, retaining, however, in many instances, the original cases as still the best representatives of the particular doctrines. Furthermore, in the space of two decades several new and important statutes in England on the general subject have been passed by Parliament. This new legislation has been collated in the Appendix to the present edition.

The general arrangement of the book follows that of the first edition and could hardly be improved upon. There are copious notes referring to other authorities in the decisional law and also much bibliography of textbooks and legal magazines. The reference to the latter is especially noteworthy as a means of rescuing from relative oblivion much very able but isolated discussion on important topics in this branch of the law. The Table listing the cases used as text and also those cited in the footnotes is fairly complete, but it would have been more helpful if, while preparing this Table, it had been made to embrace every case referred to as text or in the notations. The Appendix, besides notes on the English Statutes brought down to date, also contains a very helpful section giving instructions concerning the planning and drafting of Wills.

The original edition contained 781 pages and the present edition 888 pages. As an exemplar of the publisher's art, the latter edition marks a creditable advance—not only in the general appearance of the book but in the quality of the paper as well, and despite the additional paging the present edition is lighter in weight and thinner in bulk than the former one. In view of the present-day cost of library space this latter feature is not to be lightly regarded.

This work is commended to the reader as a worthy example of the continuing high standards set by the Editor and also his enterprising publisher.

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QUESTIONED DOCUMENTS. (Second Edition.) By A. S. Osborn. The Boyd Printing Co., Albany, N. Y. 1929. Pp. xxiv, 1028.

Some years ago a young architect who was giving evidence on the suitability of a new building material was asked, in cross-examination, whether he presumed to set his opinion against that of a certain famous architect. "In this case I do," he replied, "for I have more practical knowledge of the material than he has." This incident is typical of the attitude formerly prevailing in the courts toward expert witnesses. Their testimony generally carried weight in proportion to their reputation. In no branch of human affairs was this attitude more pronounced than in matters concerning documents and handwriting.

At the present day, however, more weight is assigned, in the majority of courts at any rate, to the demonstration of facts than to any expression of opinion. To this welcome change Mr. Osborn has by his writings largely con-

tributed. He has constantly laid stress upon the importance of proving facts in such a way that the judge or jury will have before them the salient material upon which a judgment may be based. And yet he recognizes that it is the legitimate function of the expert witness not only to direct attention to facts, many of which would otherwise escape notice, but also to interpret those facts, for, as Mr. Osborn points out, "the facts alone, even in good cases, do not often prove themselves, especially against bold perjury and resourceful advocacy". In the thirty-six chapters of his book he demonstrates many of the different ways in which a document may be made to bear silent testimony to the truth.

The second edition of *Questioned Documents* has been long overdue, for during the nineteen years that have passed since the book's first publication great advances have been made in the development of scientific methods which can be applied to the examination of documents.

In the main, the new edition follows the plan adopted in its predecessor. After chapters dealing fully with the preliminary examination of documents and the use of the microscope, camera, and various scientific measuring instruments, the subject of handwriting is discussed in a series of chapters which deal with writing movements, spacing and slant of writing, pen-pressure and shading, variations in genuine writing, and the process of reasoning on points of similarity and difference, etc. Then follow chapters on the methods of examining particular elements of documents, such as ink, pencil writing, paper, seals, etc.; the sequence of strokes, the evidence of folds, erasures, traced forgeries, and so on. This part of the book concludes with practical chapters on legal procedure in connection with documents and their presentation in court, with the physical preparation of wills and other specific documents, and with the precautions to be taken against forgery.

Each section of the subject is dealt with critically, and the conclusions justified by the facts observed are discussed in the light of the author's experience. The well-reproduced illustrations, many of them derived from actual cases, increase the value of the discussion. If one may pick out for special mention any particular section of the book, the chapters on traced forgeries may be chosen as a model of what a scientific demonstration should be. The excellence of this section is perhaps heightened by the circumstance of its being a subject upon which the author can speak with unique authority.

On the other hand, if one may criticize without any thought of depreciating, it would have been a welcome addition to the contents of the book if more attention had been directed to the chemical aspect of the subject under investigation. For instance, there is no account of the value of analytical methods of distinguishing between different kinds of paper, nor of the methods of examining charred documents, and while a few tests for distinguishing between inks are mentioned, there is no reference to the well established fact that it is possible to distinguish between the pigments of different copying-ink pencils. The remark that the differentiation by chemical means of the marks made by ordinary blacklead pencils on paper is "practically impossible" requires qualification, for graphites containing impurities, such as iron or even titanium, which can be recognized by micro-chemical tests are not of such rare occurrence as the author's words would suggest.

The second part of the work, a part which did not appear in the first edition, contains a classified list of legal citations occupying 280 pages. This section will be found invaluable as a concise summary of American case law on all topics associated with documents or handwriting. Finally, there is a very full bibliography with an alphabetical arrangement of the authors' names together with Mr. Osborn's critical comments on the various books.

Regarded as a whole, the new edition of *Questioned Documents* more than maintains the commanding position, won by the first edition, of a standard text, and it is to be warmly recommended to everyone whose work is directly or indirectly concerned with the examination of documents or with the presentation of documentary evidence in courts of law.

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RESEARCH IN INTERNATIONAL LAW: NATIONALITY; RESPONSIBILITY OF STATES; TERRITORIAL WATERS. Harvard Law School, Cambridge, Mass., 1929. Pp. vii, 399.

On September 22, 1924, the Fifth Assembly of the League of Nations requested the Council to convene a committee of experts to prepare a provisional list of subjects of international law apparently suited to regulation by convention, to submit this list through the Secretariat to the governments of all States, and to report to the Council on the questions sufficiently ripe for codification. Such a committee of experts was appointed, which included an American member, the Honorable George W. Wickersham, and which held meetings in 1925, 1926 and 1927, studying the field, circularizing governments, and considering their answers. It reported seven subjects as ripe for codification, and this report the Council transmitted to the Eighth Assembly. This Assembly chose three subjects for submission to an International Conference which is to be convened at the Hague in 1930. The subjects chosen are Nationality, Territorial Waters, and Responsibility of States for Damage Done in their Territory to the Person or Property of Foreigners. A preparatory Committee of Five was also provided for to prepare a report as a basis of discussion at the conference.

In view of the action of the Eighth Assembly in September, 1927, the Faculty of the Harvard Law School undertook to organize in November of that year, a Research in International Law "for the purpose of preparing a draft of an international convention on each of the three subjects selected by the Eighth Assembly to be dealt with at the First Conference on the Codification of International Law". This Research was set up under the direction of an Advisory Committee of forty-four members, representing teachers of international law and members of the Bar who have had wide international experience in practice or in government service. This Committee appointed Manley O. Hudson, Director, Richard W. Flournoy, Jr., Reporter on Nationality, Edwin M. Borchart, Reporter on Responsibility, and George Grafton Wilson, Reporter on Territorial Waters. With each Reporter was associated a group of advisers, and five or six extended meetings were held by each group with its Reporter and the Director, between February 1928, and January 1929. Their

work was finally passed upon by the Advisory Committee in February, 1929, and ordered printed.

It would be difficult to put too high a value upon the project undertaken by the Research in International Law which is consummated in the Drafts and Comments contained in the volume under review. This project enlisted the aid of the most competent scholars of international law in this country. It has resulted in drafts of conventions in the three fields in question, which were formulated in the hope that they may prove useful in connection with the forthcoming Conference at the Hague. These draft conventions are accompanied by extensive "comments", giving historical background, discussing conflicting views of the law, and furnishing illustrations of the operation of the rules suggested. While none of the work represents throughout the views of any individual, the publication of all was approved by Reporters, Advisers and the Advisory Committee as the collective work of the group.

Professor Hudson, and the Harvard Faculty are to be congratulated upon sponsoring so useful a piece of work. It served as a stimulus to those who participated in it, it has helped to clarify the rules of international law for American scholars in at least three fields, and it will undoubtedly be helpful to all of the delegates who will convene at the Hague next spring to attempt to make a beginning of systematic codification of international law by convention.

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LAWS OF PENNSYLVANIA RELATING TO SOCIAL WORK. By John S. Bradway.
The Public Charities Ass'n of Penna. (1929). Pp. 261.

During the years that he was an active member of the Philadelphia Bar, Mr. Bradway was that refreshing type of lawyer who gave liberally of his time and efforts in many fields of social service. He did splendid work in organizing Legal Aid societies throughout the country, served in an advisory capacity with a number of relief agencies in Philadelphia, identified himself with the present movement to place a Voluntary Defender in the criminal courts, and in many other ways contributed to the cause of social welfare. His report as *amicus curiæ* in the celebrated Ellis College case, recently in our Orphans' Court, is a masterly combination of the legal and humanitarian phases of the interesting situation which that matter presented. Within the past several months a special number of the Annals of the American Academy of Political and Social Sciences was issued under his editorship on the subject of "Law and Social Welfare."

In his introduction to that volume Mr. Bradway says that "Law is one method of solving human problems." Perhaps it was for the purpose of translating this thought into practical channels that he compiled the present book at the request of the Public Charities Association of Pennsylvania. More and more our courts are concerned with questions that deal with, and often are inspired by, social welfare. The last twenty-five years have witnessed the passage in this state of a great mass of laws dealing with the Juvenile Court, the Domestic Relations Court, the welfare of women and children, workmen's compensation, mental diseases, and similar legislation.

Very few lawyers have had the interest to keep in touch with this phase of statutory law, because much of it has been outside of the routine of their own practice. For them Mr. Bradway's book will be a convenient reference volume on the occasions when a client—rather than any humanitarian urge—leads them to seek the provisions of a statute relating to social welfare.

The book will also be of immense value to the enlarging field of social workers. Not so many years ago such persons were consumed with a fine impatience at the intrusion of legal phases into their special domain. But they have come to learn that far reaching measures like the *Child Labor Law*, the *School Code*, and the *Juvenile Court Act* must be constantly interpreted by our courts, if the reforms such acts achieved are to continue.

Mr. Bradway has intelligently grouped the considerable mass of statutes relating to social work under eleven subjects and has painstakingly correlated the acts of Assembly which have a state wide application. Federal laws and ordinances and acts of a local character have been generally omitted. It is to be regretted that the references to case law are abbreviated. There has been during the past twenty years a most interesting line of cases upon almost every subject included in this volume, and a more extended review of these cases would have added much to the completeness of a book which in other respects is so satisfactory.

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EXECUTIVE AGENTS IN AMERICAN FOREIGN RELATIONS. By Henry Merritt Wriston. Johns Hopkins Press, Baltimore, 1929. Pp. xii, 874.

This volume of the Albert Shaw Lectures on Diplomatic History, 1923, is a distinct contribution to the literature on American diplomacy. Part I is devoted to the origin and constitutional position of executive agents sent abroad, and Part II to the range of practice during one hundred and forty years. Both evidence a close study of documents. Nothing is given second hand. The facts are scrupulously garnered, and conclusions based on them are moderate and sustained.

The importance of the subject has been much emphasized by events in our recent history. The effort to limit the President's control of our international relations is a constant one, and its success may be fraught with serious consequences for the United States. The statute of March 4, 1913, that "hereafter the Executive shall not extend or accept any invitation to participate in any international congress, conference, or like event, without first having specific authority of law to do so," has already brought unfortunate results. It was an eleventh-hour amendment to an appropriation bill, signed by President Taft on the day he left office. Mr. Wriston says (p. 129) that "it had not an instant of consideration, and was agreed to without a word of comment either explanatory or critical." Yet it is precisely in this haphazard way that precedents have grown up affecting the allocation of constitutional power over our relations with other peoples. The result today is a popular impression that the conduct of such relations is committed to both the President and the Senate, and the latter is continually seeking to fill such a rôle.

Nowhere was this more evident than in the Senate's adoption of the resolution concerning adhesion to the Protocol of Signature of the Permanent Court of International Justice, on January 27, 1926, when it stipulated that "the signature of the United States to the said Protocol shall not be affixed until the Powers signatory to such Protocol shall have indicated, through an exchange of notes, their acceptance" of the Senate's reservations. The Government of the United States will find itself greatly handicapped in any efficient conduct of our international relations if it is subject to such dictation by a legislative body.

Mr. Wriston has set forth in admirable fashion the history of this struggle, and his book gives us for the first time a satisfactory analysis of this phase of national history. It should serve as an indispensable manual for all who have to do with our diplomatic relations, and one could wish that a copy might rest on every Senator's desk.

Of particular interest is a chapter devoted to agents sent by the United States to unrecognized states and governments (Chapter VII). The history of numerous instances in which the United States has perforce entered into informal relations with such governments affords little basis for much of the current discussion of our relations with the Union of Soviet Socialist Republics. This is but one of many instances of the usefulness of this volume.

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